

RESOLUTION NO. CR-25-99

A RESOLUTION TO AUTHORIZE THE CITY ADMINISTRATOR TO  
ENTER INTO AN AGREEMENT WITH VIVO LAND PARTNERS, LLE

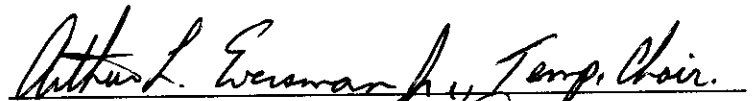
WHEREAS, Vivo Land Partners, LLE, has filed for annexation of certain property to the City of Grove City; and


WHEREAS, in order to develop said property an agreement between Vivo and the City needs to be executed stating each parties responsibility.

NOW, THEREFORE BE IT RESOLVED BY THE COUNCIL OF THE CITY OF GROVE CITY, STATE OF OHIO, THAT:

SECTION 1. The City Administrator is hereby authorized to enter into an Agreement, attached hereto as Exhibit "A", with Vivo Land Partners, LLE.

SECTION 2. This resolution shall take effect at the earliest opportunity allowed by law.

  
Michael Milovich, Jr., President of Council

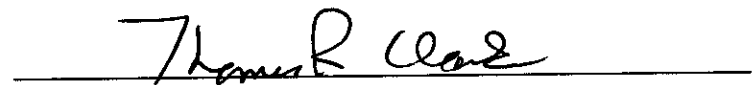
  
Cheryl L. Grossman, Mayor

Passed: 4-19-99  
Effective: 4-19-99

Attest:

  
Tami K. Kelly, CMC/AAE, Clerk of Council

I Certify that this resolution  
is correct as to form.

  
Thomas R. Clark, Director of Law

02-25-99



April 30, 1999

Charles Boso  
City of Grove City  
4035 Broadway  
Grove City, Ohio 43123

**RE: Signed Annexation and Development Agreement**

Dear Chuck:

Enclosed are three original copies of the signed Annexation and Development Agreement. Please note that I have left the effective date blank. I am assuming you will date the document when you have signed on behalf of Grove City.

Also attached are copies of the VIVO Land Partners, LLC., Corporate Resolution as well as Exhibits #1 and #2 to the document.

Please return two signed originals to my attention. Thank you for your assistance in this matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'William J. Tippmann', written in a cursive style.

William J. Tippmann  
President

WJT:dd

cc: Tim Kelton, David Fisher, Don Plank

CR-25-99  
**ANNEXATION AND DEVELOPMENT AGREEMENT**  
**EXHIBIT "A"**

Entered to be effective the       day of April, 1999, by and between the City of Grove City, Ohio, an Ohio chartered municipal corporation (hereinafter "City"), and VIVO Land Partners, LLC, an Ohio limited liability company, (hereinafter "Company").

**WITNESSETH:**

WHEREAS, Company is in contract to purchase 231 ± acres of land in Jackson Township, Franklin County Ohio, located west of Haughn Road, north of State Route 665, as depicted on Exhibit 1 attached hereto (the "Property"), which Property is, or in combination with other properties, will become contiguous to the City of Grove City, Ohio; and

WHEREAS, Company desires to develop the Property with commercial, industrial and office uses; and

WHEREAS, the City can provide municipal services to the Property including potable water and sanitary sewer services, which are necessary for the development of the Property; and

WHEREAS, the development of the Property within the corporate boundaries of the City of Grove City would add to the tax base of the City; and

WHEREAS, Company has filed petitions with the Franklin County Board of County Commissioners seeking the annexation of the Property into the City of Grove City; and

WHEREAS, Company's purchase of the Property is conditioned on the execution of this Agreement by both parties on or before April 30, 1999; and

WHEREAS, Company and City desire to set forth their respective obligations regarding the annexation of the Property into the City and the development of the Property.

NOW THEREFORE, in consideration of the mutual provisions set forth herein, the parties agree as follows:

**I.     Company's obligations**

A.     Annexation. Company shall annex the Property to the City of Grove City.

B.     Municipal Utility Service

1. Sanitary Sewer. Company shall extend sanitary sewer lines, at sizes approved by the City, from the terminus of the "City Sewer Line" (as defined in Section II (A)(1) below) as shown on Exhibit 2 attached hereto, through the Property, to the property line of the Property to allow for the extension of municipal sanitary sewer service beyond the Property. Sewer lines shall be extended through the Property by the Company as the Property develops, provided, however, at such time that 25% of the land area of the Property is developed, excluding land dedicated for public right of way, a sewer line shall be extended by Company to the west property line of the Property.

2. Water. Company shall extend water lines, at sizes approved by the City, from the terminus of the "City Water Line" (as defined in Section II (A)(2) below) as shown on Exhibit 2, through the Property to the property line of the Property to allow for the extension of municipal water service beyond the Property. Water lines shall be extended through the Property by the Company as the Property develops, provided, however, at such time that 25% of the land area of the Property is developed, excluding land dedicated for public right of way, a water line shall be extended by Company to the west property line of the Property.

3. Easements. At the request of the City, Company shall grant, at no cost to the City, non-exclusive easements for sanitary sewer lines and water lines at locations through the Property agreed to by City and Company necessary to permit the extension of sewer and water lines through the Property by others to adjacent properties.

#### C. Dedication of Land and Roadway Improvements

1. Water Tower. Company shall, at no cost to the City, grant to the City an approximately 1 ± acre site at a location mutually agreeable to the City and Company to be used for a municipal water tower. The grant to the City shall be made at such time that Grove City, City Council appropriates funds and awards a contract to build the water tower.

2. SR 665 and Haughn Road. Company shall, at no cost to the City, grant to the City, property along the Property's frontage on SR 665 and Haughn Road for the City's future improvement to those roadways. Company shall construct such left turn lanes and acceleration and deceleration lanes on SR 665 and Haughn Road as are necessary for the flow of traffic to and from the Property. Except for the payment for future road improvements as part of a City assessment of owner's of property benefiting from the road improvement project, Company shall not be responsible for any other improvements to SR 665 or Haughn Road.

#### 3. Interior Streets

(a). Company shall grant, at no cost to the City, right of way for a collector street running north/south through the Property (the "Collector Road") at a location agreeable to both parties. Company shall construct that portion of the Collector Road running through the Property in accordance with plans and specifications approved by the City.

(b). All public streets constructed on the Property, including the Collector Road, shall be designed with pavement widths of no greater than 32 feet and with right-of-way of no greater than 60 feet.

### II. City's Obligation

#### A. Municipal Utility Services

1. Sanitary Sewer. Upon the annexation of the Property to the City of Grove City, City shall extend a sanitary sewer line or lines from the terminus of the existing 24" trunk line on the east side of Interstate 71, under Interstate 71 to Haughn Road, north along Haughn Road to the Property as shown on Exhibit 2 or any other route acceptable to the City provided the terminus of said line(s) is approximately at that location on the Property shown on Exhibit 2 (the "City Sewer Line"). The City Sewer Line shall be of sufficient size and capacity to serve the Property developed with the uses set forth in the zoning text filed with Company's zoning application for the rezoning of the Property upon its annexation into the City of Grove City.

2. Water. Upon the annexation of the Property to the City of Grove City, City shall extend a water line from the terminus of the existing City water line on the east side of Interstate 71, under Interstate 71 to Haughn Road, north along Haughn Road to the Property as shown on Exhibit 2 or any other route acceptable to the City provided the terminus of said line(s) is approximately at that location on the Property shown on Exhibit 2 (the "City Water Line"). In addition to the City Water Line the City shall make those improvements to the water distribution system, including the construction of elevated tanks and pumping stations, necessary to provide adequate supply and pressure of potable water and fire protection flows for the Property developed with the uses set forth in the zoning text filed with Company's zoning application for the rezoning of the Property upon its annexation into the City of Grove City.

3. Reimbursement to Company. The City shall reimburse to Company the cost of materials for oversizing any sanitary sewer lines and water lines in excess of 12" in diameter through the Property in compliance with Section 1101.11(b)(1) of the Grove City Codified Ordinances. Company shall be responsible for the cost of all sanitary sewer and water lines 12" in diameter and less.

B. Signalization. The City shall be responsible for installation of any traffic control device at the intersection of the Collector Road on SR 665. The installation of said device shall be at the sole discretion of the City.

C. Charges and Fees. Other than such charges and fees that are normally charged to persons filing zoning and development plan applications, tapping into the City sanitary sewer and water systems and generally developing property for industrial, commercial and office uses in the City of Grove City, the City shall not charge the Company any fees including impact fees or charges.

### III. Miscellaneous

A. Notice. Any notice shall be deemed sufficient if given personally or by mailing, postage prepaid, by certified or registered mail, return receipt requested, addressed as follows:

To: Company  
VIVO Land Partners, LLC, c/o Ruscilli Development  
Company, LTD  
2041 Arlingate Lane  
Columbus, Ohio 43228-4107  
Attention: William Tippmann and Tim Kelton

To: Grove City  
Charles Boso, Jr. City Administrator  
City of Grove City Ohio  
P.O. Box 427  
4035 Broadway  
Grove City, Ohio 43123-0427

B. Successors and Assigns. This Agreement and the rights and obligations of the parties hereunder shall be subject to the terms and conditions hereof, inure to the benefit of and be binding upon the respective successors and assigns (including successive as well as

immediate successors and assigns and including the ultimate owner of any portion of Property).

C. Assignment. Company may assign this Agreement to any entity in which Company is an owner, partner or member. Any other assignment by Company requires the approval of the City.

D. Company's Construction. In the event the City fails to bid and enter into a contract(s) for the construction of the City Sewer Line and/or City Water Line within 120 days of the later of: (i) the annexation of the Property or (ii) the date which all necessary easements are obtained for the construction of the City Sewer Line and/or the City Water Line, or, having entered into a contract(s) to construct said lines, the City fails to commence construction within 60 days thereof, Company may, at Company's option, commence construction of said improvements and upon completion thereof City shall reimburse to Company the cost of construction, including labor, materials, inspection fees, engineering fees, and the cost of surveying and staking. Company shall comply with all City and State of Ohio requirements relative to public bids and paying prevailing wages.

E. Assessment. Notwithstanding anything contained herein to the contrary, the City does not waive its right to assess the owner or owners of the Property for future improvements paid for by the City and benefiting the Property, except for as otherwise provided in Section I.C(2) above.

F. Exclusive Agreement Between The Parties. This Agreement supersedes any and all prior agreements, arrangements, negotiations, understandings and acknowledgments between the City and Company relative to the matters contained herein, whether oral or written. No amendment, modification or alteration of this agreement shall be valid unless in writing and signed by the parties hereto.

G. Termination. This Agreement shall automatically terminate January 1, 2001 and be of no further force and effect, if (1) the City Sewer Line has not been extended to the Property by such date, and (2) the City Water has not been extended to the Property by such date. However, if either the City Water Line or the City Sewer Line has been extended to the Property by January 1, 2001, then this Agreement shall not terminate. In the event this Agreement is terminated pursuant to this paragraph G, each party shall be relieved of any further obligations hereunder and each party shall be responsible for all costs and expenses incurred by it prior to termination and neither party shall be entitled to reimbursement for such expenses from the other party.

[SIGNATURES ON FOLLOWING PAGE]

CITY OF GROVE CITY

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Per authority granted by Ordinance No. \_\_\_\_\_ passed \_\_\_\_\_, 1999

VIVO LAND PARTNERS, LLC,  
C/O RUSCILLI DEVELOPMENT  
COMPANY, LTD

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

City Attorney's Approval  
Approved as to form

\_\_\_\_\_

**PERSONS SIGNING FOR COMPANY SHALL SIGN THEIR OWN NAME AND STATE THEIR TITLE. A CORPORATE RESOLUTION AUTHORIZING COMPANY TO ENTER INTO THIS AGREEMENT AND THE SIGNATURE TO BIND THE COMPANY IS ATTACHED HERETO.**

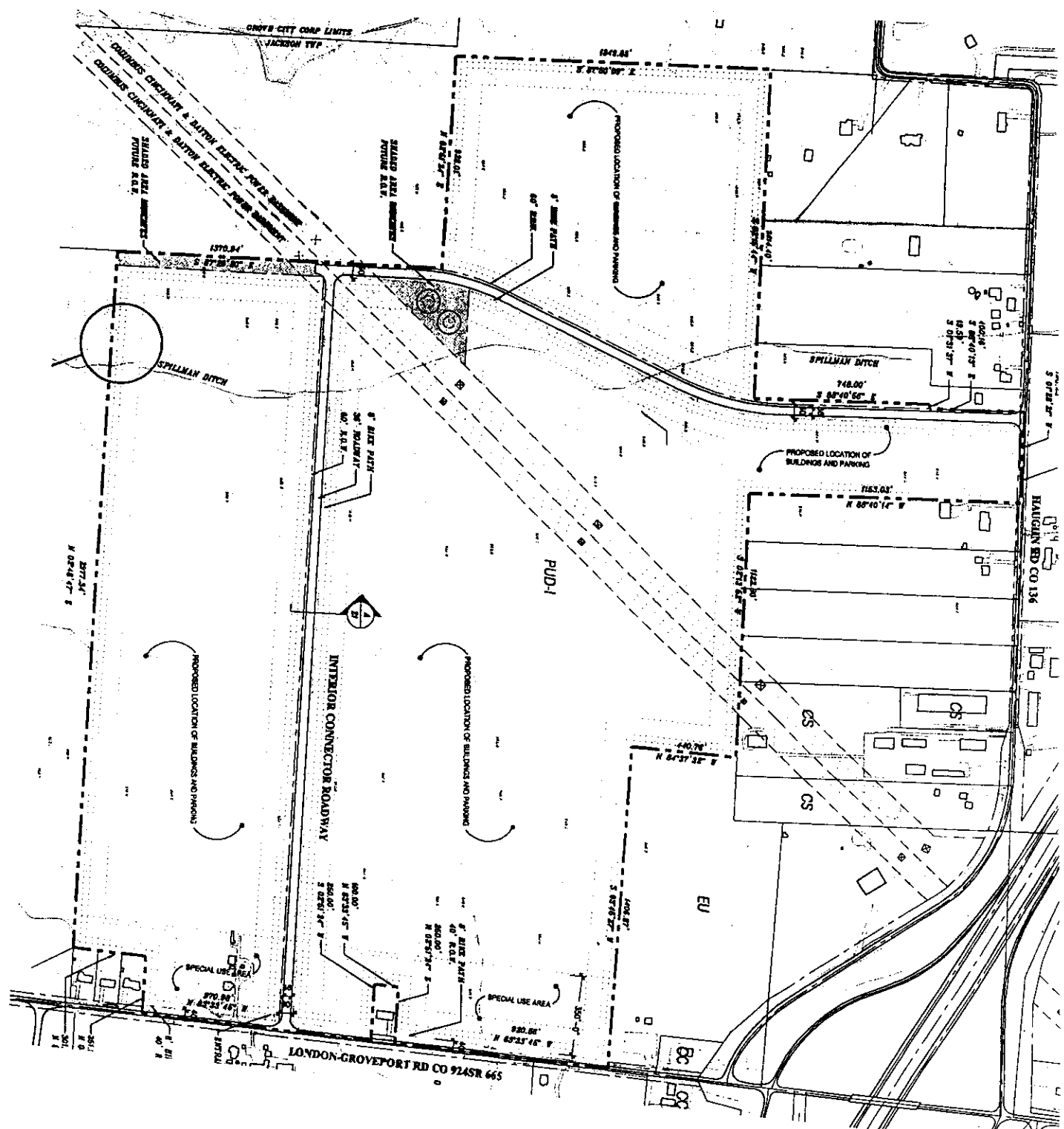
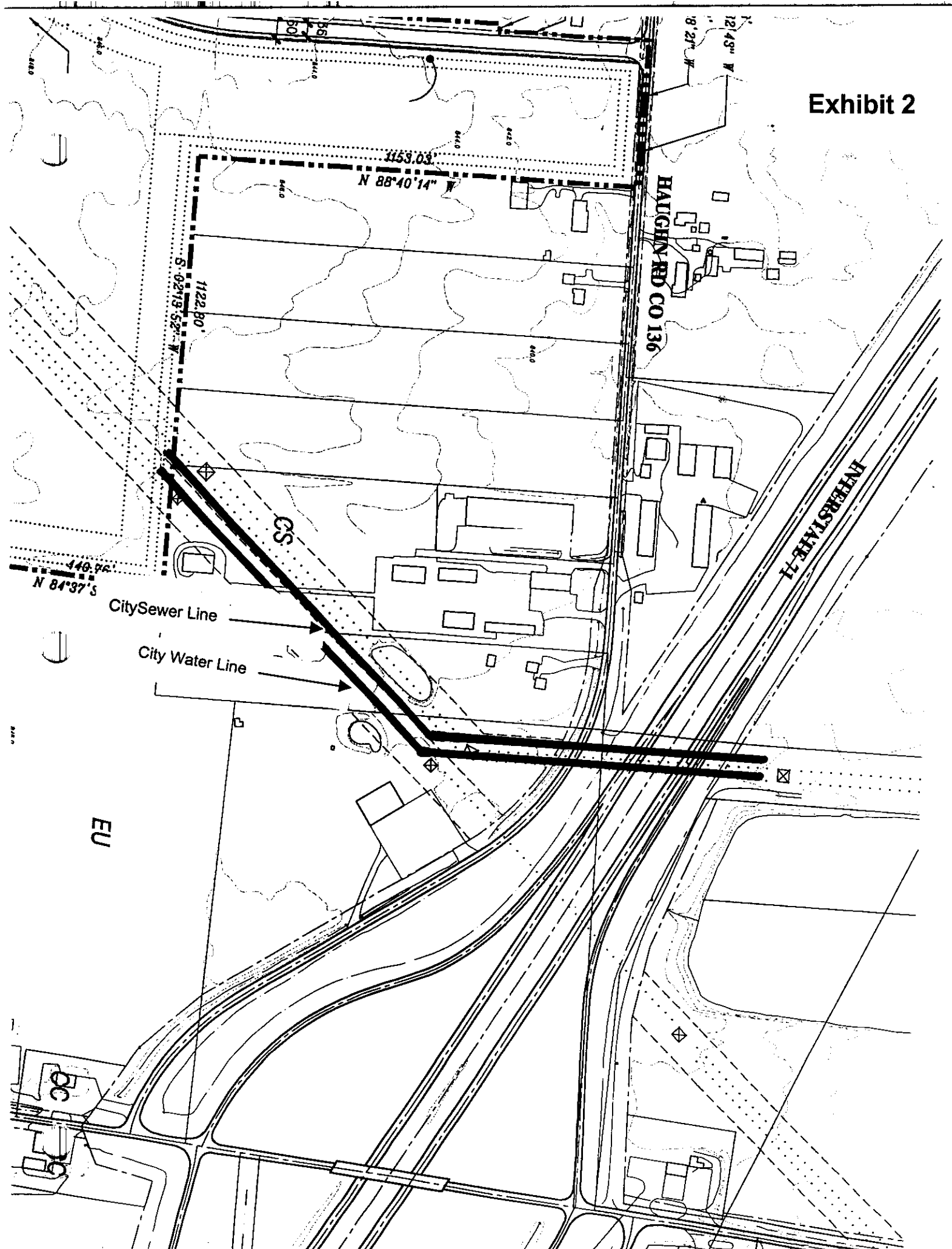


Exhibit 1



Exhibit 2



CP-25-99

## ANNEXATION AND DEVELOPMENT AGREEMENT

Entered to be effective the 19th day of MAY, 1999, by and between the City of Grove City, Ohio, an Ohio chartered municipal corporation (hereinafter "City"), and VIVO Land Partners, LLC, an Ohio limited liability company, (hereinafter "Company").

### WITNESSETH:

WHEREAS, Company is in contract to purchase 231± acres of land in Jackson Township, Franklin County Ohio, located west of Haughn Road, north of State Route 665, as depicted on Exhibit 1 attached hereto (the "Property"), which Property is, or in combination with other properties, will become contiguous to the City of Grove City, Ohio; and

WHEREAS, Company desires to develop the Property with commercial, industrial and office uses; and

WHEREAS, the City can provide municipal services to the Property including potable water and sanitary sewer services, which are necessary for the development of the Property; and

WHEREAS, the development of the Property within the corporate boundaries of the City of Grove City would add to the tax base of the City; and

WHEREAS, Company has filed petitions with the Franklin County Board of County Commissioners seeking the annexation of the Property into the City of Grove City; and

WHEREAS, Company's purchase of the Property is conditioned on the execution of this Agreement by both parties on or before May 14, 1999; and

WHEREAS, Company and City desire to set forth their respective obligations regarding the annexation of the Property into the City and the development of the Property.

NOW THEREFORE, in consideration of the mutual provisions set forth herein, the parties agree as follows:

I. Company's obligations

A. Annexation. Company shall annex the Property to the City of Grove City.

B. Municipal Utility Service

1. Sanitary Sewer. Company shall extend sanitary sewer lines, at sizes approved by the City, from the terminus of the "City Sewer Line" (as defined in Section II (A)(1) below) as shown on Exhibit 2 attached hereto, through the Property, to the property line of the Property to allow for the extension of municipal sanitary sewer service beyond the Property. Sewer lines shall be extended through the Property by the Company as the Property develops, provided, however, at such time that 25% of the land area of the Property is developed, excluding land dedicated for public right of way, a sewer line shall be extended by Company to the west property line of the Property.

2. Water. Company shall extend water lines, at sizes approved by the City, from the terminus of the "City Water Line" (as defined in Section II (A)(2) below) as shown on Exhibit 2, through the Property to the property line of the Property to allow for the extension of municipal water service beyond the Property. Water lines shall be extended through the Property by the Company as the Property develops, provided, however, at such time that 25% of the land area of the Property is developed, excluding land dedicated for public right of way, a water line shall be extended by Company to the west property line of the Property.
3. Easements. At the request of the City, Company shall grant, at no cost to the City, non-exclusive easements for sanitary sewer lines and water lines at locations through the Property agreed to by City and Company necessary to permit the extension of sewer and water lines through the Property by others to adjacent properties.

C. Dedication of Land and Roadway Improvements

1. Water Tower. Company shall, at no cost to the City, grant to the City an approximately 1 ± acre site at a location mutually agreeable to the City and Company to be used for a municipal water tower. The grant to the City shall be made at such time that Grove City, City Council appropriates funds and awards a contract to build the water tower.
2. SR 665 and Haughn Road. Company shall, at no cost to the City, grant to the City, property along the Property's frontage on SR 665 and Haughn Road for the City's future improvement to those roadways. Company shall construct such left turn lanes and acceleration and deceleration lanes on SR 665 and Haughn Road as are necessary for the flow of traffic to and from the Property. Except for the payment for future road improvements as part of a City assessment of owner's of property benefiting from the road improvement project, Company shall not be responsible for any other improvements to SR 665 or Haughn Road.
3. Interior Streets
  - (a). Company shall grant, at no cost to the City, right of way for a collector street running north/south through the Property (the "Collector Road") at a location agreeable to both parties. Company shall construct that portion of the Collector Road running through the Property in accordance with plans and specifications approved by the City.
  - (b). All public streets constructed on the Property, including the Collector Road, shall be designed with pavement widths of no greater than 32 feet and with right-of-way of no greater than 60 feet.

## II. City's Obligation

### A. Municipal Utility Services

1. Sanitary Sewer. Upon the annexation of the Property to the City of Grove City, City shall extend a sanitary sewer line or lines from the terminus of the existing 24" trunk line on the east side of Interstate 71, under Interstate 71 to Haughn Road, north along Haughn Road to the Property as shown on Exhibit 2 or any other route acceptable to the City provided the terminus of said line(s) is approximately at that location on the Property shown on Exhibit 2 (the "City Sewer Line"). The City Sewer Line shall be of sufficient size and capacity to serve the Property developed with the uses set forth in the zoning text filed with Company's zoning application for the rezoning of the Property upon its annexation into the City of Grove City.
2. Water. Upon the annexation of the Property to the City of Grove City, City shall extend a water line from the terminus of the existing City water line on the east side of Interstate 71, under Interstate 71 to Haughn Road, north along Haughn Road to the Property as shown on Exhibit 2 or any other route acceptable to the City provided the terminus of said line(s) is approximately at that location on the Property shown on Exhibit 2 (the "City Water Line"). In addition to the City Water Line the City shall make those improvements to the water distribution system, including the construction of elevated tanks and pumping stations, necessary to provide adequate supply and pressure of potable water and fire protection flows for the Property developed with the uses set forth in the zoning text filed with Company's zoning application for the rezoning of the Property upon its annexation into the City of Grove City.
3. Reimbursement to Company. The City shall reimburse to Company the cost of materials for oversizing any sanitary sewer lines and water lines in excess of 12" in diameter through the Property in compliance with Section 1101.11(b)(1) of the Grove City Codified Ordinances. Company shall be responsible for the cost of all sanitary sewer and water lines 12" in diameter and less.

- B. Signalization. The City shall be responsible for installation of any traffic control device at the intersection of the Collector Road on SR 665. The installation of said device shall be at the sole discretion of the City.

- C. Charges and Fees. Other than such charges and fees that are normally charged to persons filing zoning and development plan applications, tapping into the City sanitary sewer and water systems and generally developing property for industrial, commercial and office uses in the City of Grove City, the City shall not charge the Company any fees including impact fees or charges.

### III. Miscellaneous

- A. Notice. Any notice shall be deemed sufficient if given personally or by mailing, postage prepaid, by certified or registered mail, return receipt requested, addressed as follows:

To: Company

VIVO Land Partners, LLC, c/o Ruscilli Development  
Company, LTD  
2041 Arlingate Lane  
Columbus, Ohio 43228-4107  
Attention: William Tippmann and Tim Kelton

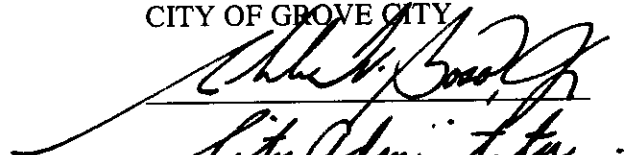
To: Grove City

Charles Boso, Jr. City Administrator  
City of Grove City Ohio  
P.O. Box 427  
4035 Broadway  
Grove City, Ohio 43123-0427

- B. Successors and Assigns. This Agreement and the rights and obligations of the parties hereunder shall be subject to the terms and conditions hereof, inure to the benefit of and be binding upon the respective successors and assigns (including successive as well as immediate successors and assigns and including the ultimate owner of any portion of Property).
- C. Assignment. Company may assign this Agreement to any entity in which Company is an owner, partner or member. Any other assignment by Company requires the approval of the City.
- D. Company's Construction. In the event the City fails to bid and enter into a contract(s) for the construction of the City Sewer Line and/or City Water Line within 120 days of the later of: (i) the annexation of the Property or (ii) the date which all necessary easements are obtained for the construction of the City Sewer Line and/or the City Water Line, or, having entered into a contract(s) to construct said lines, the City fails to commence construction within 60 days thereof, Company may, at Company's option, commence construction of said improvements and upon completion thereof City shall reimburse to Company the cost of construction, including labor, materials, inspection fees, engineering fees, and the cost of surveying and staking. Company shall comply with all City and State of Ohio requirements relative to public bids and paying prevailing wages.
- E. Assessment. Notwithstanding anything contained herein to the contrary, the City does not waive its right to assess the owner or owners of the Property for future improvements paid for by the City and benefiting the Property, except for as otherwise provided in Section I.C(2) above.
- F. Exclusive Agreement Between The Parties. This Agreement supersedes any and all prior agreements, arrangements, negotiations, understandings and acknowledgments between the City and Company relative to the matters contained herein, whether oral or written. No amendment, modification or alteration of this agreement shall be valid unless in writing and signed by the parties hereto.

- G. Termination. This Agreement shall automatically terminate January 1, 2001 and be of no further force and effect, if (1) the City Sewer Line has not been extended to the Property by such date, and (2) the City Water has not been extended to the Property by such date. However, if either the City Water Line or the City Sewer Line has been extended to the Property by January 1, 2001, then this Agreement shall not terminate. In the event this Agreement is terminated pursuant to this paragraph G, each party shall be relieved of any further obligations hereunder and each party shall be responsible for all costs and expenses incurred by it prior to termination and neither party shall be entitled to reimbursement for such expenses from the other party.

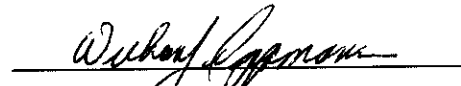
CITY OF GROVE CITY

  
City Administrator  
City of Grove City

Per authority granted by Ordinance No.  
*RES.*

*CR-25-99* passed *4/19/*, 1999

VIVO LAND PARTNERS, LLC,  
C/O RUSCILLI DEVELOPMENT  
COMPANY, LTD

  
Representative  
RUSCILLI Dev. Co. LTD.

Approved as to form  
City Attorney, Thomas R. Clark



**PERSONS SIGNING FOR COMPANY SHALL SIGN THEIR OWN NAME AND STATE THEIR TITLE. A CORPORATE RESOLUTION AUTHORIZING COMPANY TO ENTER INTO THIS AGREEMENT AND THE SIGNATURE TO BIND THE COMPANY IS ATTACHED HERETO.**

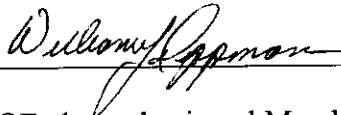
CERTIFICATE

The undersigned Member of Ruscilli Development Co., Ltd., an Ohio limited liability company (the "Company") certifies to the City of Grove City, Ohio as follows:

1. The Company is the Managing Member of Vivo Land Partners, L.L.C., an Ohio limited liability company ("VIVO") and in such capacity is authorized by the Operating Agreement for VIVO to execute an Annexation and Development Agreement between VIVO and the City of Grove City, Ohio.
2. William J. Tippmann is the duly appointed and acting President of the Company and set forth below is a duly adopted resolution of the Company:

"RESOLVED, that the Company, as Managing Member of VIVO Land Partners, L.L.C., enter into an Annexation and Development Agreement with the City of Grove City, Ohio and in connection therewith the President of the Company is authorized to negotiate, execute and deliver such an agreement containing such terms and conditions as the President shall deem appropriate".

3. Set forth below is the specimen signature of William J. Tippmann:

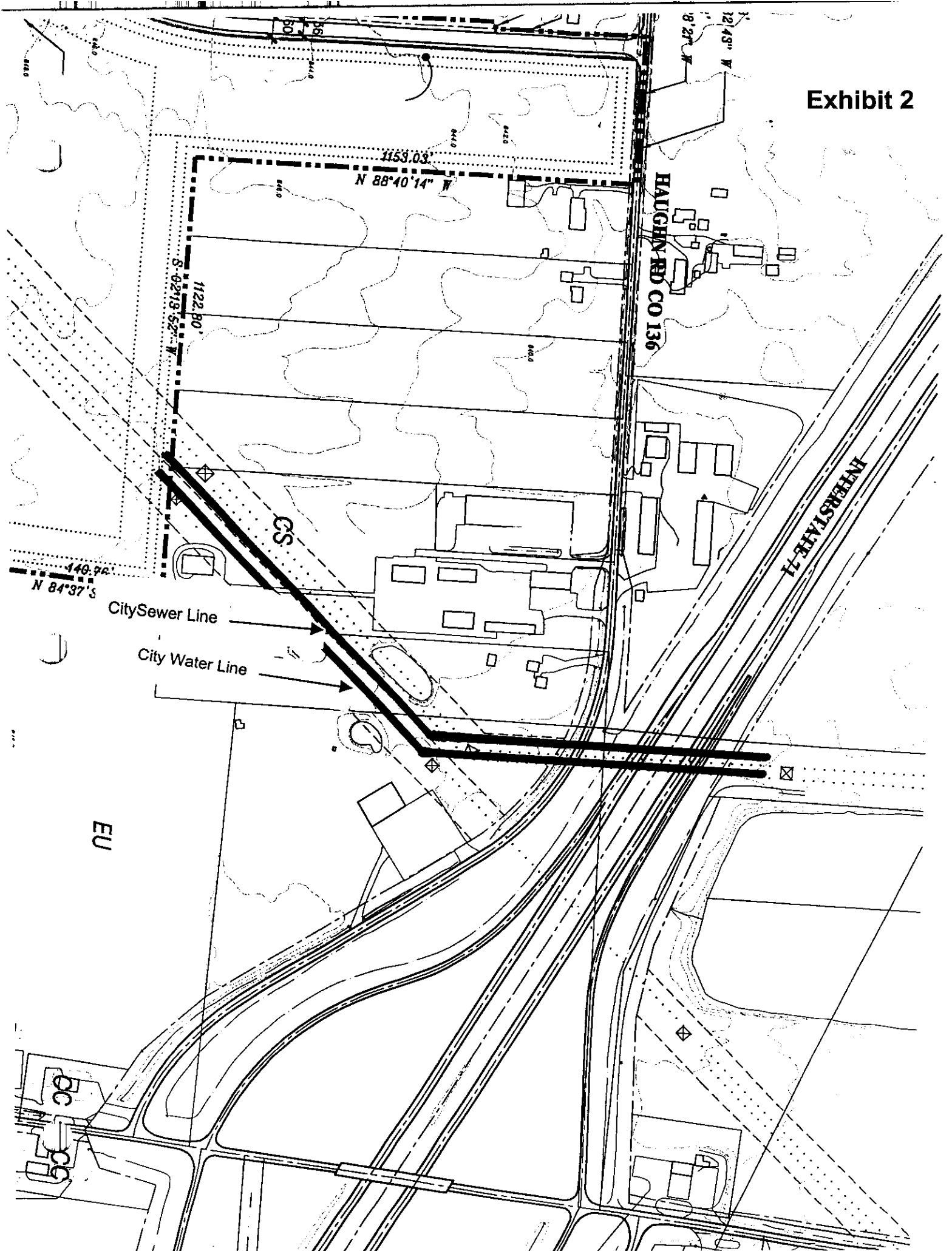
  
\_\_\_\_\_

IN WITNESS WHEREOF, the undersigned Member has executed this Certificate as of the 30 day of April, 1999.

  
\_\_\_\_\_

Timothy D. Kelton  
Member

Exhibit 2





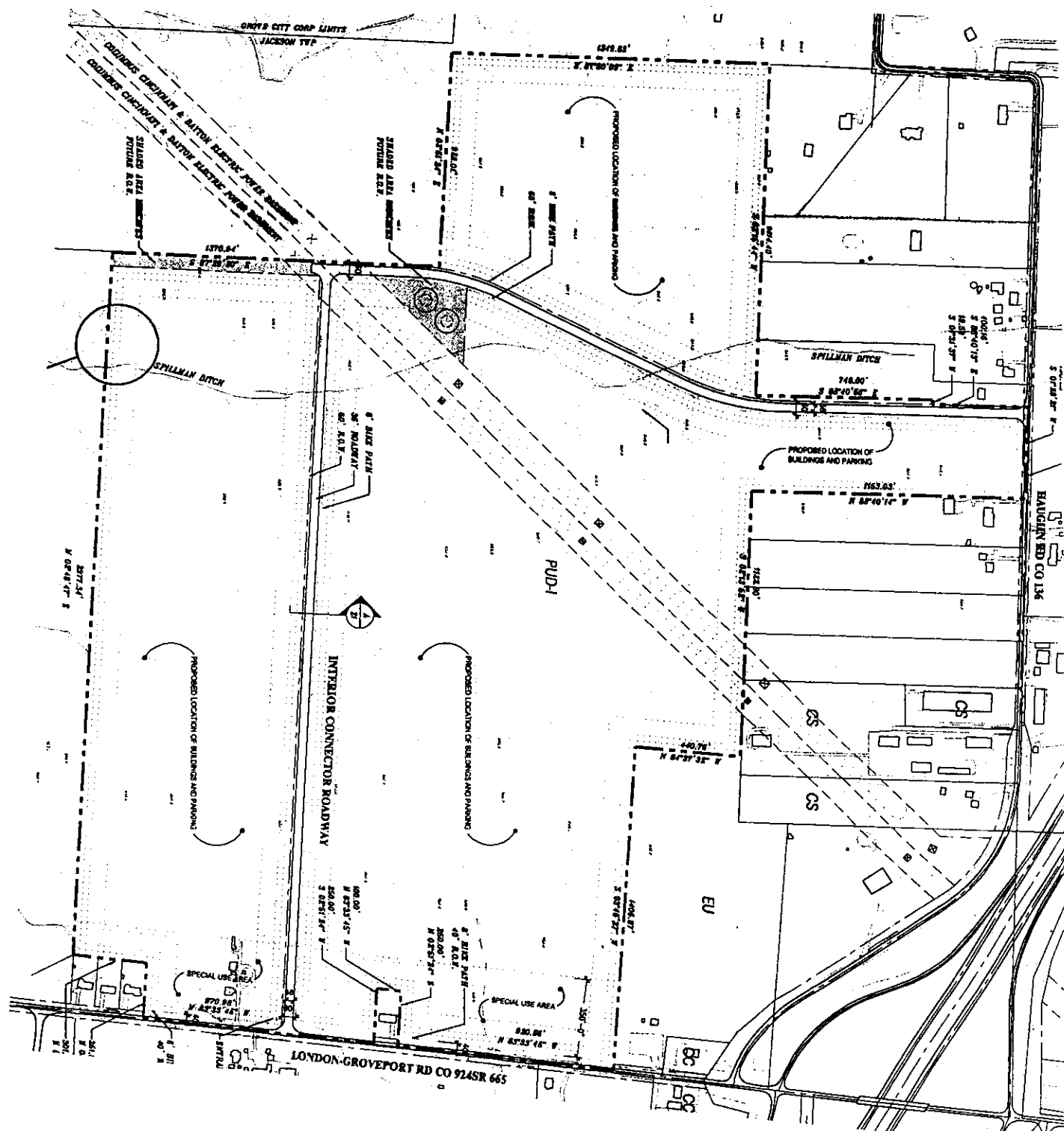


Exhibit 1